

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

TAWANDA BALLARD,	:	
	:	
Plaintiff	:	CIVIL ACTION NO. 3:20-1623
	:	
v.	:	(JUDGE MANNION)
	:	
CITY OF SCRANTON, <u>et al.</u>,	:	
	:	
Defendants	:	

ORDER

Pending before the court is the report of Magistrate Judge William I. Arbuckle, which recommends that the plaintiff's complaint (Doc. 1) be dismissed pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) for failure to state a claim upon which relief can be granted. (Doc. 7). The plaintiff has failed to file objections to the report and recommendation of Judge Arbuckle.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)).

Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

By way of relevant background, the plaintiff brought the instant action against the City of Scranton, Terrence V. Gallagher, and the Scranton Police Department. Having given the plaintiff's complaint preliminary consideration pursuant to 28 U.S.C. §1915(e)(2), Judge Arbuckle determined that the plaintiff failed to state a claim upon which relief could be granted. (Doc. 6). The plaintiff was, however, given leave to file an amended complaint. With the time to do so having passed, the plaintiff failed to file an amended complaint. Judge Arbuckle therefore filed the instant report in which he recommends that the plaintiff's complaint be dismissed without further leave to amend. (Doc. 7). In so recommending, Judge Arbuckle determined that defendant Gallagher, as a state court judge, enjoys judicial immunity (Doc. 7, pp. 6-8); plaintiff's claims challenging the decision rendered in her state court action is barred by the Rooker-Feldman doctrine (Id., pp. 8-9); the Scranton Police Department is an improper defendant under 42 U.S.C. §1983 (Id., pp. 9-10); and the plaintiff failed to state a plausible Monell claim against the City of Scranton (Id., pp. 10-11). Because the plaintiff has already

been granted leave to amend her complaint and failed to do so, Judge Arbuckle recommends dismissal without further leave to amend.

Upon review of Judge Arbuckle's report and recommendation, the court finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Arbuckle to his conclusions. As such, the court will adopt Judge Arbuckle's report in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The report and recommendation of Judge Arbuckle (**Doc. 7**) is **ADOPTED IN ITS ENTIRETY** as the decision of the court.

(2) The plaintiff's complaint is **DISMISSED**, without leave to amend, pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) for failure to state a claim upon which relief can be granted.

(3) The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: February 9, 2021

20-1-01